

When Representative John Lewis died this summer, Governor Greg Abbott ordered that flags be lowered to half-staff as he “urge[d] all Texans to appropriately remember John Lewis’ life of service to our nation.”<sup>1</sup> Representative Lewis’ life of service famously began during the 1960s Civil Rights Movement, when Alabama State Troopers nearly killed him during the fight to secure legislation that would become the Voting Rights Act (VRA).

Yet despite Governor Abbott’s praise, in many ways Texas has led the effort to dismantle Representative Lewis’ lifelong commitment to protect the vote, which the civil rights hero called “the most powerful nonviolent tool we have to create a more perfect union.”<sup>2</sup> Perhaps nowhere has this been more evident than in polling place closures following the 2013 *Shelby v. Holder* decision by the United States Supreme Court that dismantled the preclearance provision of the VRA. Under that provision, Texas had been required to seek approval for any changes that affected voting due to a history of restricting the franchise of Black and Latinx voters.<sup>3</sup> Following the *Shelby* ruling, Texas jurisdictions continue to pass legislation and make policy changes that prove that oversight is still needed to protect marginalized voters.<sup>4</sup>

Texas has closed 750 polling locations – by far the most in the nation – since 2013.<sup>5</sup> Some (although not all) closures have been the result of the countywide polling place program, which has given more voters more options to cast their ballots conveniently. But these closures have created new problems of increased distance and longer wait times, without requiring a racial impact analysis to determine how historically marginalized voters of color are affected, as would have occurred under preclearance.<sup>6</sup>

Although counties no longer have to provide a racial impact analysis of closing polling places, outside evaluations found that 94 percent of polling place closures between 2012 and 2018 occurred in Texas counties that had gained the most Black and Latinx residents. The remaining six percent of closures not only occurred in counties that saw the least growth in Black and Latinx residents, but counties with the fewest closures actually lost over 13,000 residents, compared to the 2.5 million resident growth that occurred in counties with the most closures.<sup>7</sup> Even more concerning, counties closed more polling places in predominantly Latinx neighborhoods than in predominantly white ones,<sup>8</sup> leaving Latinx voters further away from the polls.

Polling place closures have real world effects such as increased wait times and increased distance to the polls. Black and Latinx voters report wait times that are around 45 percent longer than white voters.<sup>9</sup> The 2020 Primary Election saw Texas voters – often young voters of color –

---

<sup>1</sup> <https://www.facebook.com/TexasGovernor/photos/a.439028833255/10158560771668256/?type=3&theater>

<sup>2</sup> <https://www.pbs.org/newshour/show/rep-john-lewis-your-vote-is-precious-almost-sacred>

<sup>3</sup> <https://www.justice.gov/crt/about-section-5-voting-rights-act>

<sup>4</sup> <https://cdf.texas.org/wp-content/uploads/sites/8/2019/12/The-Kids-Are-Not-the-Problem.pdf>

<sup>5</sup> <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

<sup>6</sup> <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

<sup>7</sup> <https://www.theguardian.com/us-news/2020/mar/02/texas-polling-sites-closures-voting>

<sup>8</sup> <https://cpb-us-w2.wpmucdn.com/web.sas.upenn.edu/dist/7/538/files/2019/06/Cortina-and-Rottinghaus-ESRA-2019-Paper.pdf>

<sup>9</sup> <https://www.brennancenter.org/our-work/research-reports/waiting-vote>

waiting up to seven hours to cast their ballots.<sup>10,11</sup> Lines will only grow longer in November due to higher interest and the ban on straight ticket voting. It is impossible to know how many voters were discouraged or unable to wait in these prohibitive lines because of work, family, or school responsibilities, but one estimate finds that over half a million eligible voters nationwide did not vote in 2016 because of polling place problems, including long wait times.<sup>12</sup> Moreover, long wait times have been associated with decreased likelihood of future voter participation.<sup>13</sup> Distance to the polling place is also directly related with voter turnout, as voters who live further away face difficulties accessing affordable and safe transportation, locating polling places in unfamiliar neighborhoods, and needing additional travel time to go vote.<sup>14</sup> These issues disproportionately burden voters based on race, income, age, and education; as a result, voters who are white, wealthier, older, and have a college education have easier access to the ballot box.<sup>15</sup>

It cannot be the position of a democratic government that voters have to “prove” their commitment to voting by overcoming obstacles to the ballot box, especially when those obstacles correlate directly with voter demographics. The right to vote does not depend on a voter’s socioeconomic status, race, age, disability status, or any other characteristics. Yet in practice, these characteristics do dictate voting access and behavior in the state of Texas due to polling place closures and other electoral policies. It must be the responsibility of the state to provide equitable opportunities to vote to all eligible Texans. At a bare minimum, the state must require racial impact analyses for policy and administrative changes that might disproportionately burden marginalized voters. A state that is truly committed to the full participation of all its citizens must also dedicate more resources to ensuring that polling places remain open and accessible, targeting communities that have seen the most polling place closures in the past seven years.

---

<sup>10</sup> <https://www.texastribune.org/2020/03/04/harris-countys-texas-southern-university-voting-delays-what-happened/>

<sup>11</sup> <https://www.texastribune.org/2020/03/03/texas-voting-lines-extend-hours-past-polls-closing-super-tuesday/>

<sup>12</sup> <https://www.brennancenter.org/our-work/research-reports/waiting-vote>

<sup>13</sup> [https://www.sciencedirect.com/science/article/pii/S0261379420300718?casa\\_token=xWQqbNLRq8kAAAAA:YXoOz40McTyriKXdV1QBZHCa7Lqphz-SyIPMaE2wwsD6EdPpJNWDjPdVnK0-u6Jfv-kYIK42R6w](https://www.sciencedirect.com/science/article/pii/S0261379420300718?casa_token=xWQqbNLRq8kAAAAA:YXoOz40McTyriKXdV1QBZHCa7Lqphz-SyIPMaE2wwsD6EdPpJNWDjPdVnK0-u6Jfv-kYIK42R6w)

<sup>14</sup> <https://www.jstor.org/stable/pdf/41480830.pdf>

<sup>15</sup> <https://bipartisanpolicy.org/report/the-2018-voting-experience/>

The greatest threat to fair elections in Texas today remains systemic barriers to the ballot box that deter many Texans – disproportionately Black and Latinx, low-income, young, and disabled Texans – from casting their votes. COVID-19 has exacerbated the policy and political barriers to voting that have resulted in years of voter registration and turnout rates that consistently rank among the worst in the country. The House Elections Committee has the ability and the responsibility to lead a wholesale reform of the voting process so that Texans can exercise their constitutional right to vote – a right that undergirds all other rights in a democratic government.

It is no coincidence that Texas repeatedly ranks among the worst states for voter registration and turnout.<sup>37</sup> During the 2020 Primary Election, the Secretary of State reports that one in four voting-age Texans was not registered to vote.<sup>38</sup> Moreover, there are concerning racial and socioeconomic disparities in voter registration that strongly suggest that not all Texans have equitable access to the ballot box.<sup>39</sup> Current state law too often views voting as a “privilege” that must be “earned” by voters who have the time, money, and support to overcome the numerous barriers to the ballot box. Children’s Defense Fund – Texas asserts that eligible Texans instead have a *right* to vote, protected against abridgement or denial by the U.S. Constitution.

It is the state’s responsibility to facilitate a democratic process in which all eligible voters have a fair chance to make their voices heard, and yet the state has repeatedly declined to take simple steps to modernize the voter registration system at the same that it actively purges, intimidates, and prosecutes Texans who want to fulfill their civic duty.

The path to the ballot box starts with voter registration, and there are four commonsense reforms that Texas can adopt to align its registration process with best practices that are widespread across the country:

- I. Texas must join 41 other states in allowing online voter registration (OVR) as a second option to supplement paper registration;<sup>40</sup>
- II. Texas must join 19 other states in allowing automatic voter registration (AVR) when eligible voters interact with DPS or other state agencies;<sup>41</sup>
- III. Texas must join 21 other states in allowing same-day voter registration (SDVR) so eligible Texans can register to vote at the ballot box;<sup>42</sup> and
- IV. Texas must expand the responsibility of the Secretary of State’s office to facilitate high school voter registration (HSVR) in Election Code §13.046, requiring that all eligible students have an opportunity to register in their high schools.

---

<sup>37</sup> <https://www.nonprofitvote.org/full-50-state-2018-turnout-ranking-voting-policy/>

<sup>38</sup> <https://www.sos.state.tx.us/elections/historical/70-92.shtml>

<sup>39</sup> <https://www.usccr.gov/pubs/2018/07-23-TX-Voting-Rights.pdf>

<sup>40</sup> <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>

<sup>41</sup> <https://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>

<sup>42</sup> <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>

## I. Online Voter Registration (OVR)

Since Arizona first adopted OVR in 2002, 40 additional states have followed suit to allow voters to register themselves quickly and efficiently online. It is a nonpartisan and commonplace reform practiced across the country. OVR states run the gamut of political ideologies, from California and New York to Louisiana and Alabama, and include the majority of states in the South.<sup>43</sup>

These states recognize that OVR simplifies the registration process for both voters and election officers. OVR allows voters to provide all the information currently provided on a paper application via the Internet. Election officials then electronically review the application using information that most Texans have provided to the Department of Public Safety (DPS) during interactions to receive a state-issued ID. The signature that they provided during these interactions becomes the signature on record in the voter registration file. Eligible voters without state-issued identification still apply via paper so that the state can capture their signatures.

The process is straightforward and benefits both voters and the state. For voters, OVR removes time and money barriers that are associated with the need to print and mail paper registration forms. It is more accessible to many currently-underrepresented communities, including young Texans, Black and Latinx Texans, low-income Texans, and disabled Texans. Voters can also more easily find registration information in multiple languages online – a necessity in a state where over a third of residents over the age of five speak a language other than English at home.<sup>44</sup>

For the state, OVR allows registrations to be processed more quickly. It also eliminates the need for state officials to read and manually input handwritten applications, leading to less human error and more accurate voter rolls. It should be noted that the state clearly requires new methods to maintain accurate voter rolls, after the attempted voter purge in 2019 that misidentified tens of thousands of eligible voters as potentially ineligible, led to multiple lawsuits and a congressional inquiry, and ultimately cost the state \$450,000 after the then-Secretary of State's office admitted that it knew native-born and naturalized citizens were included on the list.<sup>45</sup> Most states have developed and implemented online voter registration systems for less than Texas's legal fees in that case alone, and report additional cost savings for each online registration.<sup>46</sup>

OVR is thus a well-tested and common electoral reform that enjoys bipartisan support – including in Texas. At least 22 bills have been filed in Texas over the past four legislative sessions that would have allowed the state to adopt OVR. Republican and Democratic lawmakers alike have supported OVR bills such as HB 2814 in 2011, which passed the House on a 138-1-2 vote, and SB 315 in 2013, which passed the Senate 27-4.<sup>47</sup>

Previous OVR bills have also seen support from a wide variety of relevant stakeholders, including the Texas Association of Elections Administrators, the Tax Assessor-Collectors

---

<sup>43</sup> <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>

<sup>44</sup> <https://www.texastribune.org/2015/11/26/languages-spoken-texas-homes/>

<sup>45</sup> <https://www.texastribune.org/2019/01/29/texas-voter-citizenship-list-problems-state-tells-counties/>

<sup>46</sup> [https://www.brennancenter.org/sites/default/files/publications/Voter\\_Registration\\_Digital\\_Age\\_2015.pdf](https://www.brennancenter.org/sites/default/files/publications/Voter_Registration_Digital_Age_2015.pdf)

<sup>47</sup> <https://capitol.texas.gov/Home.aspx>

Association of Texas, the National Republican Lawyers Association, the League of Women Voters, Disability Rights Texas, and others. The reform also has support from most Texans: in 2018, a UT/Texas Politics Project poll found that 57% of Texans support OVR, including a majority of Democrats and a plurality of both Independents and Republicans.<sup>48</sup>

Over the past three sessions, this committee has been presented with at least fourteen OVR bills without once voting them out of committee. This committee has not even held a hearing on OVR since 2015. In the intervening five years, 28 states implemented OVR, leaving Texas well behind. It is past time for Texas to join their ranks and allow online voter registration.

## II. Automatic Voter Registration (AVR)

State agencies such as the Texas Department of Public Safety (DPS) currently collect all the information necessary to register voters, including legal name, proof of identity, proof of residency, citizenship status, and signature. DPS already allows Texans to submit paper registration applications at their offices, following federal law. It would be easy for DPS to facilitate automatic voter registration by electronically transferring this information to the voter registration database, with Texans who are not interested in registering being given the option to opt-out. Registrants would self-verify that they are eligible for voter registration (after being given guidance on eligibility requirements) and local election officials would then receive registrants' information, just as currently occurs to verify paper applications.

As with OVR, AVR cleans up voter rolls and saves the state money – all while making it easier for Texans to register to vote. The Center for American Progress estimates that nearly two million eligible Texans would be added to the voter rolls under an AVR law similar to one enacted in Oregon in 2016.<sup>49</sup> AVR is another popular and commonsense reform that the legislature must pass to promote voting in Texas.

## III. Same-Day Voter Registration (SDVR)

Texas voters currently must register to vote 30 days before Election Day – well before many eligible voters are informed about the current election cycle. Texas is one of just ten states with this extreme deadline,<sup>50</sup> leading to voters – especially young or first-time voters – losing their right to cast their votes because of an arbitrary administrative barrier. Voting habits are formed early.<sup>51</sup> By increasing barriers for young voters, Texas risks losing their voices not just in one

---

<sup>48</sup> <https://texaspolitics.utexas.edu/set/support-or-oppose-allowing-texans-complete-voter-registration-forms-online-june-2018>

<sup>49</sup> <https://www.americanprogress.org/issues/democracy/reports/2018/07/11/453319/increasing-voter-participation-america/>

<sup>50</sup> <https://www.vote.org/voter-registration-deadlines/>

<sup>51</sup> [http://assets.cambridge.org/97805215/41473/frontmatter/9780521541473\\_frontmatter.pdf](http://assets.cambridge.org/97805215/41473/frontmatter/9780521541473_frontmatter.pdf)

election but in future elections too – an unacceptable proposition, especially in a state where young Texans make up an increasing and vocal segment of the population.

The stated rationale for the current registration deadline is that officials require time to process voter applications. If this were the state’s primary concern, it would have adopted reforms such as online or automatic voter registration which, as previously discussed, both expedite the voter registration process. Moreover, twenty-one states allow eligible voters to register to vote on the same day that they cast their ballot, with proof of residency and identity that mirror current registration requirements in Texas (i.e., a current state-issued photo ID).<sup>52</sup> Same-day registrants often must also sign an affidavit stating that they are eligible to vote and have not already voted. States including Texas already have laws that penalize attempts to vote fraudulently – although of course it has been well-documented in multiple nonpartisan academic studies, government inquiries, and court cases that there is no evidence of widespread fraud in the modern era.<sup>53</sup> Even the conservative Heritage Foundation has documented only 1300 cases of proven voter fraud dating back to 1982, during which time literally billions of votes have been cast.<sup>54</sup>

There is no reason Texas cannot extend the voter registration deadline to Election Day to allow every eligible voter the best opportunity to cast their ballot. At the very least, the deadline should be extended to two weeks before Election Day, in concert with voting modernizations such as OVR that streamline the registration process.

#### IV. High School Voter Registration (HSVR)

Jolt Texas reports that one in three eligible Texas voters will be below the age of 30 by 2022,<sup>55</sup> yet young Texans consistently vote at lower rates than older voters due to a number of state policies (including many already addressed in these comments) that create barriers to the ballot box that disproportionately affect younger voters.<sup>56</sup> In addition to removing legislative barriers such as an outdated voter registration system, Texas must also strengthen legislation that does support young voters – in particular, the groundbreaking high school voter registration law in Tex. Election Code §13.046.

Since 1985, the Texas Election Code has noted the importance of supporting young voters by ensuring they have the opportunity to register to vote during high school.<sup>57</sup> High schools are required to provide voter registration applications to every eligible student at least twice per academic year. Yet because of ignorance of the law and anemic support from the state, many high school students are not receiving this opportunity. The Texas Civil Rights Project has for years documented HSVR compliance with Tex. Election Code §13.046 and, along with partners

---

<sup>52</sup> <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>

<sup>53</sup> <https://www.washingtonpost.com/news/wonk/wp/2014/07/09/7-papers-4-government-inquiries-2-news-investigations-and-1-court-ruling-proving-voter-fraud-is-mostly-a-myth/>

<sup>54</sup> <https://www.heritage.org/voterfraud>

<sup>55</sup> <http://www.joltinitiative.org/wp-content/uploads/2018/10/Jolt-We-Are-Texas.pdf>

<sup>56</sup> <https://cdfutexas.org/wp-content/uploads/sites/8/2019/12/The-Kids-Are-Not-the-Problem.pdf>

<sup>57</sup> <https://ownourvote.org/wp-content/uploads/2020/09/HSVR-Report-2020.pdf>



such as Children’s Defense Fund – Texas, has led the effort to increase compliance rates across the state. These efforts are reflected in the latest report that 38 percent of high schools are complying with the law, up from a mere 14 percent in 2017.<sup>58</sup>

But students’ access to voter registration should not be dependent on their location or the ability of nonprofit organizations and educators to fill gaps left by the state. The Texas Legislature must ensure that access to voter registration is equitable across all high schools and for all students, through coordinated efforts led by the Texas Secretary of State and the Texas Education Agency (TEA). At a minimum, the Secretary of State must affirmatively send voter registration forms directly to schools, along with a reminder of their responsibility under the HSVR law. TEA could support this effort by providing updated administrator contact information and an estimated number of students who will be turning 18 in each academic year. The Secretary of State should also create new outreach campaigns to encourage compliance, provide standardized registration trainings for educators and administrators, and track compliance statewide.

Legislation to fill these gaps has been filed before, including last session when relevant bills again failed to advance past this committee. Particularly while schools are struggling with transitioning to virtual or distanced learning, now is the time for the Texas Legislature to support administrators, educators, and students by requiring that the Secretary of State take an active role in HSVR.

### *A 21<sup>st</sup> Century Registration System*

A 21<sup>st</sup> century democracy requires a 21<sup>st</sup> century registration system to ensure that every eligible voter has equal and unrestrained access to the ballot box. Online, automatic, and same-day voter registration are commonsense, bipartisan reforms that modernize voter registration in line with the vast majority of states. In fact, Texas is just one of four states that has yet to adopt any of these three reforms.<sup>59</sup> Expanding the high school voter registration law provides greater opportunity for new voters to register and receive nonpartisan and reliable voter education. It is incumbent upon this committee to lead the 87<sup>th</sup> legislature in protecting Texans’ right to vote.

---

<sup>58</sup> <https://ownourvote.org/wp-content/uploads/2020/09/HSVR-Report-2020.pdf>

<sup>59</sup> <https://cdfutexas.org/wp-content/uploads/sites/8/2019/12/The-Kids-Are-Not-the-Problem.pdf>